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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

(General Regulations, Series F)

REGULATIONS GOVERNING THE PRODUCTION OF EVIDENCE AND APPEARANCES IN ADMINISTRATIVE PROCEEDINGS

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, HENRY A. WALLACE, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following regulations with the force and effect of law, to be in force and effect from the date of approval hereof, until amended or superseded by regulations hereafter made by the Secretary of Agriculture with the approval of the President under said Act.



IN TESTIMONY WHEREOF I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the City of Washington this 16th day of October, 1935.

H A Wallace

Secretary of Agriculture.

Approved:

Franklin D. Roosevelt

The President of the United States.

THE WHITE HOUSE,
OCT. 24, 1935.

ARTICLE I—DEFINITIONS

SECTION 100.¹ As used in these regulations:

- (a) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.
- (b) The term "Secretary" means the Secretary of Agriculture of the United States.
- (c) The term "Department" means the United States Department of Agriculture.

¹ The sections of these regulations are numbered according to the corresponding numbers of the articles. Thus, the first section of the first article is Section 100; the first section of the second article is Section 200, etc.

(d) The term "Hearing Clerk" means the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.

(e) The term "proceeding" means any hearing or investigation which the Secretary is authorized or required by the Act or by Sections 56-60, inclusive, of an Act of Congress approved August 24, 1935, relating to anti-hog-cholera serum and hog-cholera virus, to conduct.

(f) The term "Presiding Officer" means such officer or employee of the Department as the Secretary may designate to conduct a proceeding.

(g) The term "order" as used in Article VI of these regulations means any order issued by the Secretary pursuant to Sections 8c or 10 (i) of the Act, or Sections 56-60, inclusive, of an Act of Congress approved August 24, 1935, relating to handlers of anti-hog-cholera serum and hog-cholera virus.

(h) The term "person" means an individual, partnership, corporation, association or any other business unit.

(i) The term "documentary evidence" means any book, record, contract, document, memorandum, paper, correspondence or other written data.

ARTICLE II—SUBPOENAS—THEIR ISSUANCE AND SERVICE—OATH

SECTION 200. Subpoenas—Who May Issue.—The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to a proceeding, including the Secretary, may, by subpoena, be required at any designated place of proceeding. Subpoenas shall be issued by the Secretary or, in the name of the Secretary, by the Presiding Officer or such officer or employee of the Department as the Secretary may designate for the purpose.

SECTION 201. Subpoenas Duces Tecum—Application Therefor.—Subpoenas for the production of documentary evidence, except as issued by the Secretary or the Presiding Officer on their own motions respectively, shall be issued only upon a verified written application therefor addressed to the person authorized to issue subpoenas under Section 200 of this Article, specifying, as nearly as possible, the particular documentary evidence desired and the relevant and material facts sought to be proved thereby.

SECTION 202. Return of Subpoena and Manner of Service.—Subpoenas may be served personally or by registered mail. The return of service on a subpoena made by a United States Marshal or his deputy serving the same shall constitute evidence of service. The evidence of service made by any person other than a United States Marshal or his deputy shall consist of an affidavit by such person describing the manner of service, returned on or with the original subpoena in accordance with the form of affidavit thereon. In the case of service by registered mail, the evidence of service shall consist of an affidavit made by the person mailing the subpoena and a return card attached to such affidavit signed by the person subpoenaed or his duly authorized agent. Where there is a failure of service, there shall be stated on the original subpoena by the person attempt-

ing service the reasons for such failure. In making personal service, the person making service shall exhibit the original subpoena to the person served, shall read the same to him if he is unable to read, and shall leave a duplicate original thereof with him, or, in the event such exhibition and reading is prevented by the person to be served, shall leave a duplicate original thereof with him. The original subpoena bearing or accompanied by the required return, affidavit or statement shall be returned forthwith to the person who issued the same.

SECTION 203. Oath.—The Secretary, or the Presiding Officer, or such officer or employee of the Department as the Secretary may designate for the purpose, may administer to or take from any witness an oath, affirmation or affidavit.

ARTICLE III—DEPOSITIONS

SECTION 300. The Secretary, or the Presiding Officer, or such officer or employee of the Department as the Secretary may designate for the purpose, may order testimony to be taken by deposition in any proceeding and at any stage thereof. Any party to a proceeding, other than the Secretary, desiring to take the deposition of any witness shall make written application therefor to the person authorized hereunder to order the deposition taken. There shall be set forth in such application the title of the proceeding, the reasons why such deposition should be taken, the time when, the place where, and the name and post-office address of an officer authorized to administer oaths before whom it is desired the deposition be taken, the name and post-office address of the witness, and the subject matter or matters respecting which the witness is expected to testify. Upon good cause shown, the person authorized hereunder to order the deposition taken shall, by order, name the witness whose deposition is to be taken and specify the time when, the place where, and an officer authorized to administer oaths before whom the witness is to testify, but such time and place and the person before whom the deposition is to be taken, so specified in such order, may or may not be the same as those suggested in said application. The said order shall also specify the time, manner and place for the return of the deposition and the person to whom the deposition shall be returned. The applicant for such order shall thereupon cause to be served, personally or by registered mail, upon the other parties to the proceeding, or their attorneys appearing in the proceeding, copies of said order not less than five days before the time of the taking of the deposition when the deposition is to be taken within the United States, and not less than fifteen days before the time of taking of the deposition when the deposition is to be taken in a foreign country, and the service of such copies shall be evidenced by return in the same manner as provided in Section 202 of Article II hereof relating to the returns of subpoenas. Any such person having power to administer oaths and designated as the person before whom the deposition shall be taken shall have power to sign and issue subpoenas, requiring any witness named in such order to appear and testify and/or to produce documentary evidence. Whenever the Secretary, as a party to the proceeding, shall desire to take the depo-

sition of any witness, the Secretary, the Presiding Officer, or such officer or employee of the Department as the Secretary may designate for the purpose may, on their own motions respectively, issue such order and give such notice to the other parties to the proceeding or their attorneys appearing in the proceeding. The testimony taken by deposition shall be reduced to writing by the person designated to take the same or under his direction, after which the deposition shall be subscribed by the witness and certified in the usual form by the person before whom the deposition is taken.

The provisions of Articles II, IV and V of these regulations shall be applicable insofar as appropriate to depositions taken under this article.

ARTICLE IV—SEGREGATION OF TESTIMONY AND OFFICIAL PUBLICATIONS

SECTION 400. Segregation of Testimony.—When relevant and material facts offered in evidence in any proceeding are embraced in a book, record or document containing other facts not material or relevant and not intended or proper to be put in evidence, such immaterial and irrelevant facts shall be excluded and shall be segregated insofar as possible.

SECTION 401. Official Publications.—Official publications or reports of the Department and other departments of the United States Government and of the several States or Territories of the United States, when material or relevant, shall be received in evidence without authentication.

ARTICLE V—FEES AND MILEAGE

SECTION 500. Witnesses who are subpoenaed and who appear in such proceeding, including witnesses whose depositions are taken, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and persons taking depositions shall be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear, and claims therefor, as to witnesses subpoenaed on behalf of the Secretary, shall be proved before the person issuing the subpoena, and as to witnesses subpoenaed on behalf of any other party, shall be presented to such party.

ARTICLE VI—APPEARANCES IN A PROCEEDING RELATING TO ORDERS

SECTION 600. In any proceeding relating to the violation of any order, or in any proceeding held pursuant to a petition filed by any handler stating that any order or any provision thereof, or any obligation imposed in connection therewith, is not in accordance with law, and praying for a modification thereof or an exemption therefrom, the parties thereto, including the Secretary, may appear in person or be represented by attorneys at law in good standing who have been admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the

United States, or the Court of Appeals, or the Supreme Court of the District of Columbia. Any individual who, or member of a partnership which, is a party to any such proceeding may appear for himself or such partnership upon adequate identification, and a corporation or association may be represented by a *bona-fide* officer of such corporation or association. Any person appearing as counsel or representative for any other person in such proceeding may, in the discretion of the Secretary or the Presiding Officer, be required to file with the Secretary or the Presiding Officer a power of attorney to act as such counsel or representative. The Secretary may be represented at such proceeding by the Presiding Officer or by counsel.

The Secretary or the Presiding Officer may, in his discretion, deny, suspend or revoke the right of any attorney to represent others in such a proceeding who is shown not to possess the requisite qualifications to represent others, or who is shown to be lacking in character or integrity, or is shown to be guilty of unprofessional conduct. Before taking such action, the attorney shall be afforded an opportunity to be heard, and where the determination upon such question is made by the Presiding Officer, such attorney may appeal therefrom to the Secretary, whose decision thereon shall be final.

ARTICLE VII—CONSTRUCTION

SECTION 700. Nothing contained in these regulations shall be, or shall be construed to be, in derogation or modification of the rights of the Secretary or of the United States (1) to exercise any jurisdiction or powers granted by Title I, Part II, Section 10 (h) of the Act, or otherwise, and/or (2) to act in the premises in accordance with such jurisdiction and powers whenever such action is deemed advisable.

ARTICLE VIII—PUBLIC NOTICE OF FOREGOING REGULATIONS— HOW GIVEN

SECTION 800. Public notice of the issuance of the foregoing regulations shall be given by (a) posting a copy of such regulations on the official bulletin board of the Department at Washington, D. C.; (b) issuing a press release containing a description of such regulations and making available in the office of the Hearing Clerk copies of such regulations for the press; and (c) forwarding by mail copies of such regulations to the Governors of the several States of the United States and to the executive heads of the Territories of the United States.

